

## **Title 15 BUILDINGS and CONSTRUCTION**

### **Chapter 15.1 BUILDING NUMBERING SYSTEM**

#### **15.1.1 Street-numbering Map.**

A. All buildings must bear a distinctive street number in accordance with and as designated upon the street-numbering map on file with the Town's assessing department. The Town assessor is responsible to maintain and keep current said map.

B. No person may affix, or allow to be affixed, a different street number from the one designated on the street-numbering map.

#### **15.1.2 Display of Number.**

The number is to be displayed upon the front of the building and/or on the side facing the street. The number must be plainly visible from the street. Buildings and houses that are set back out of view from the road must place a post or sign at the driveway entrance with the specified numbers. Said post/sign is not considered a structure which must conform to zoning ordinance setbacks. In place of a post/sign, the number may be affixed to a mailbox. Said post/sign must be placed out of the Town's right-of-way and be six feet in height.

#### **15.1.3 Multifamily Houses or Apartment Buildings.**

For multifamily houses or apartment buildings, the house number is to be displayed as outlined in Section 15.1.2. Each individual apartment or living unit must be clearly sub-lettered.

#### **15.1.4 Numbers—Dimensions and Color.**

Numbers must be no less than three inches in height and contrast in color with the color of the building or background to which they are attached.

#### **15.1.5 Time Limit for Compliance—Violation—Penalty.**

Any person who, after being notified by the police chief or any law enforcement officer from the Town, fails to comply with any of the provisions of this chapter within the time limit of not more than thirty (30) days specified in such notice is liable to a fine of not less than fifty dollars (\$50.00), nor more than one hundred dollars (\$100.00), per violation. Each day a violation is continued is a separate offense.

### **Chapter 15.2 PLUMBING AND SEPTIC SYSTEM PERMIT FEES**

#### **15.2.1 Applicability.**

This chapter applies to fees charged by the Town for plumbing and subsurface wastewater disposal system permits issued by the Town pursuant to 30-A M.R.S. §4201 et seq. and pursuant to rules promulgated by the Department of Health and Human services (DhHS) under the authority of 30-A M.R.S. §4201 et seq. ("State Plumbing Code"). For purposes of this chapter, the terms contained in this chapter have the meanings given to them in the State Plumbing Code.

### **15.2.2 Plumbing Permit Fees.**

A. At the time of issuance by the Town of a plumbing permit pursuant to 30-A M.R.S. §4201 et seq. and the State Plumbing Code, the plumbing permit applicant must pay a fee in accordance with the following schedule and at the rate provided for each classification shown herein:

1. Any person who begins any work for which a permit is required by the State Plumbing Code without first having obtained a permit therefor, if subsequently eligible to obtain a permit, is liable to pay double the permit fee fixed by this chapter for such work. However, this provision does not apply to emergency work when it is proven to the satisfaction of the local plumbing inspector that such work was urgently necessary and that it was not practical to obtain a permit before the commencement of the work. In all such emergency cases, a permit must be obtained within four working days or else a double permit fee as hereinabove provided is to be charged.

2. For the purpose of this chapter a sanitary plumbing outlet on or to which a plumbing fixture or appliance may be set or attached is construed to be a fixture. Fees for reconnection and retest of existing plumbing systems in relocated buildings is to be based on the number of plumbing fixtures, water heaters, etc., involved.

3. The following permit fees are to be charged:

a. Minimum fee for all permits, see Appendix A.

b. Fixture fee, see Appendix A.

c. Reinspection fee, see Appendix A. A reinspection fee must be charged by the local plumbing inspector in those instances when work has not been completed upon an inspection or when work was not in compliance with the State Plumbing Code.

d. When only new water distribution and/or drainage pipes are installed or relocated in a building, but no fixtures installed, the fee is as set out in Appendix A.

e. A hook-up fee as set out in Appendix A is to be charged for the connection of a mobile home which bears the Housing and Urban Development (HUD) seal or a modular home which bears the Manufactured Housing Board seal to a building sewer.

f. A hook-up fee as set out in Appendix A is to be charged for connection to a public sewer when piping is installed beyond the jurisdiction of the sanitary district.

g. Relocated mobile homes, modular homes or any other similar structures are considered as new conventional stickbuilt structures and a plumbing fixture fee is to be charged based on this section.

h. A permit is valid only for the named applicant but may be transferred by payment of a transfer fee as set out in Appendix A.

### **15.2.3 Subsurface Wastewater Disposal System Fees.**

A. Prior to the local plumbing inspector's issuance of a subsurface wastewater disposal system permit, the permit applicant must pay the local plumbing inspector a permit fee calculated in accordance with schedule set out in Appendix A.

B. Late Permit Fee. A person who starts construction without first obtaining a subsurface wastewater disposal permit must pay double the permit fee indicated in subsection A of this section.

## **Chapter 15.3 FLOODPLAIN MANAGEMENT**

### **15.3.1 Statement of Purpose and Intent.**

Certain areas of the Town are subject to periodic flooding, causing serious damages to properties within these areas. Relief is available in the form of federally subsidized flood insurance as authorized by the National Flood Insurance Act of 1968.

Therefore, the Town has chosen to become a participating community in the National Flood Insurance Program, and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended) as delineated in this chapter.

It is the intent of the Town to require the recognition and evaluation of flood hazards in all official actions relating to land use in the floodplain areas having special flood hazards.

This body has the legal authority to adopt land use and control measures to reduce future flood losses pursuant to Title 30-A M.R.S. §3001-3007, 4352 and 4401-4407.

### **15.3.2 Definitions.**

Unless specifically defined below, words and phrases used in this chapter have the same meaning as they have a common law and to give this chapter its most reasonable application. Words used in the present tense include the future, the singular number includes the plural, and the plural number includes the singular. The word “may” is permissive; “shall” is mandatory and not discretionary.

**Adjacent grade** means the natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**Area of a shallow flooding** means a designated AO and AH zone on a community’s Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**Area of special flood hazard** means the land in the floodplain having a one percent or greater chance of flooding in any given year, as specifically identified in the Flood Insurance Study cited in 15.12.030.

**Base flood** means the flood having a one percent chance of being equaled or exceeded in any given year, commonly called the one hundred (100) year flood.

**Basement** means any area of the building having its floor subgrade (below ground level) on all sides.

**Breakaway wall** means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system. Building. See “Structure.”

**Certificate of compliance** means a document signed by the Code Enforcement Officer stating that a structure is in compliance with all of the provisions of this chapter.

**Development** means any change caused by individuals or entities to improved or unimproved real estate, including but not limited to the construction of buildings or other structures; the construction of additions or substantial improvements to buildings or other structures; mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials; and the storage, deposition, or extraction of materials, public or private sewage disposal systems or water supply facilities.

**Elevated building** means a nonbasement building:

1. Built, in the case of a building in Zones A1—30, AE, A, A99, AO or AH, to have the top of the elevated floor, elevated above the ground level by means of pilings, columns, post, piers or “stilts”; and
2. Adequately anchored so as not to impair the structural integrity of the building during a flood of up to one foot above the magnitude of the base flood.

In the case of Zones A1—30, AE, A, A99, AO or AH, elevated building also includes a building elevated by means of fill or solid foundation perimeter walls less than three feet in height with openings sufficient to facilitate the unimpeded movement of flood waters.

**Elevation certificate** means an official form (FEMA Form 81-31, 05/90, as amended) that:

1. Is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program; and
2. Is required for purchasing flood insurance.

**Flood or flooding** means:

1. A general and temporary condition of partial or complete inundation of normally dry land areas from:
  - a. The overflow of inland or tidal waters,
  - b. The unusual and rapid accumulation or runoff of surface waters from any source;
2. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents or water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in subsection (1)(a) of this definition.

**Flood elevation study** means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

**Flood Insurance Rate Map (FIRM)** means an official map of a community, on which the Administrator of the Federal Insurance Administration has delineated both the special hazard areas and the risk premium zones applicable to the community.  
Flood Insurance Study. See “Flood elevation study.”

**Floodplain** or **Flood-prone area** means any land area susceptible to being inundated by water from any source (see flooding).

**Floodplain management** means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

**Floodplain management regulations** means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance, and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

**Floodproofing** means any combination of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and contents.

**Floodway.** See “Regulatory floodway.”

**Floodway encroachment lines** means the lines marking the limits of floodways on federal, state and local floodplain maps.

**Freeboard** means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to compensate for the many unknown factors, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed, that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions.

**Functionally dependent use** means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

**Historic structure** means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - a. By an approved state program as determined by the Secretary of the Interior, or
  - b. Directly by the Secretary of the Interior in states without approved programs.

**Locally established datum** means, for purposes of this chapter, an elevation established for a specific site to which all other elevations at the site are referenced. This elevation is generally not referenced to the National Geodetic Vertical Datum (NGVD) or any other established datum and is used in areas where mean sea level is too far from a specific site to be practically used.

**Lowest floor** means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements described in Section 15.3.8.

**Manufactured home** means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than one hundred eighty (180) consecutive days.

**Mean sea level** means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

"New construction" means structures for which the "start of construction" commenced on or after the effective date of floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

**One Hundred (100) Year Flood.** See "Base flood."

**Regulatory floodway:**

1. Means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot; and
2. In riverine areas is considered to be the channel of a river or other watercourse and the adjacent land areas to a distance of one-half the width of the floodplain, as measured from the normal high water mark to the upland limit of the floodplain.

**Riverine** means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

**Special Flood Hazard Area.** See “Area of special flood hazard.”

**Start of construction** means the date the building/regulated activity permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**Structure** means, for floodplain management purposes, a walled and roofed building. A gas or liquid storage tank that is principally above ground is also a structure.

**Substantial damage** means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

**Substantial improvement** means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
2. Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

**Variance** means a grant of relief by a community from the terms of a floodplain management regulation.

**Violation** means the failure of a structure or development to comply with a community's floodplain management regulations.

### **15.3.3 Establishment.**

The Town elects to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended). The National Flood Insurance Program, established in the aforesaid Act, provides that areas of the Town having a special flood hazard be identified by the Federal Emergency Management Agency and that floodplain management measures be applied in such flood hazard areas. This chapter establishes a flood hazard development permit system and review procedure for development activities in the designated flood hazard areas of the Town.

The areas of special flood hazard, Zones A, A1—30, AE, AO, AH, V1—30 and/or VE, identified by the Federal Emergency Management Agency in a report entitled “Flood Insurance Study—Town of Kittery, Maine, York County,” dated January 5, 1984 with accompanying “Flood Insurance Rate Map” dated July 3, 1986 is adopted by reference and declared to be a part of this chapter.

### **15.3.4 Permit Required.**

Before any construction or other development (as defined in Section 15.3.2), including the placement of manufactured homes, begins within any areas of special flood hazard established in Section 15.3.3, a flood hazard development permit is to be obtained from the Code Enforcement Officer. This permit is in addition to any other building/regulated activity permits which may be required pursuant to this code.

### **15.3.5 Application for Permit.**

The application for a flood hazard development permit is to be submitted to the Code Enforcement Officer and include:

- A. The name and address of the applicant;
- B. An address and a map indicating the location of the construction site;
- C. A site plan showing location of existing and/or proposed structures, sewage disposal facilities, water supply facilities, areas to be cut and filled, and lot dimensions;
- D. A statement of the intended use of the structure;
- E. A statement as to the type of sewage system proposed;
- F. Specification of dimensions of the proposed structure;
- G. The elevation in relation to the National Geodetic Vertical Datum (NGVD) or to a locally established datum in Zone A only, of the:
  1. Base flood at the proposed site of all new or substantially improved structures, which is determined:
    - a. In Zones A1—30, AE, AO, AH, V1—30, and VE from data contained in the “Flood Insurance Study—Town of Kittery, Maine,” as described in Section 15.3.3, or
    - b. In Zone A, to be the elevation of the ground at the intersection of the floodplain boundary and a line perpendicular to the shoreline which passes along the ground through the site of the proposed building,
  2. Highest and lowest grades at the site adjacent to the walls of the proposed building,
  3. Lowest floor, including basement; and whether or not such structures contain a basement, and
  4. Level, in the case of nonresidential structures only, to which the structure will be floodproofed;



- H. A description of a base flood elevation reference point established on the site of all new or substantially improved structures;
- I. A written certification by a registered land surveyor that the elevations shown on the application are accurate;
- J. Certification by a registered professional engineer or architect that floodproofing methods for any:
  - 1. Nonresidential structures will meet the floodproofing criteria of subsection (G)(4) of this section, subsection G of Section 15.3.8, and other applicable standards in Section 15.3.8, and
  - 2. Construction in coastal high hazard areas, Zones V1—30 and VE, will meet the floodproofing criteria of subsection K of Section 15.3.8, and other applicable standards in Section 15.3.8;
- K. A description of the extent to which any watercourse will be altered or relocated as a result of the proposed development; and
- L. A statement of construction plans describing in detail how each applicable development standard in Section 15.3.8 will be met.

#### **15.3.6 Application Fee and Expert's Fee.**

A nonrefundable application fee as set out in Appendix A is to be paid to the Town Clerk and a copy of a receipt for the same must accompany the application.

An additional fee may be charged if the Code Enforcement Officer and/or Board of Appeals needs the assistance of a professional engineer or other expert. The expert's fee must be paid in full by the applicant within ten (10) days after the Town submits a bill to the applicant. Failure to pay the bill constitutes a violation of the ordinance and is grounds for the issuance of a stop work order. An expert may not be hired by the municipality at the expense of an applicant until the applicant has either consented to such hiring in writing or been given an opportunity to be heard on the subject. An applicant who is dissatisfied with a decision of the Code Enforcement Officer may appeal that decision to the Board of Appeals.

#### **15.3.7 Review of Flood Hazard Development Permit Applications.**

The Code Enforcement Officer must:

- A. Review all applications for the flood hazard development permit to assure that proposed building sites are reasonably safe from flooding and to determine that all pertinent requirements of Section 15.3.8 Development standards, have, or will be met;
- B. Utilize, in the review of all flood hazard development permit applications, the base flood data contained in the "Flood Insurance Study—Town of Kittery, Maine," as described in Section 15.3.3. In special flood hazard areas where base flood elevation data are not provided, the Code Enforcement Officer is to obtain, review and reasonably utilize any base flood elevation and floodway data from federal, state, or other sources, including information obtained pursuant to Sections 15.3.5(G)(1)(b), 15.3.8I and 15.3.10D, in order to administer Section 15.3.8 of this chapter;
- C. Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in Section 15.3.3;
- D. In the review of flood hazard development permit applications, determine that all necessary permits have been obtained from those federal, state and local government agencies

from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334;

E. Notify adjacent municipalities, the Department of Environmental Protection, and the Maine Office of Community Development prior to any alteration or relocation of a water course and submit copies of such notifications to the Federal Emergency Management Agency;

F. Issue a two-part flood hazard development permit for elevated structures. Part I is to authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant must provide the Code Enforcement Officer with an application for Part II of the flood hazard development permit and include an elevation certificate completed by a registered Maine surveyor for compliance with the elevation requirements of subsections F, G, H and K of Section 15.3.8. Following review of the application, which review must take place within three working days of receipt of the application, the Code Enforcement Officer is to issue Part II of the flood hazard development permit. Part II authorizes the applicant to complete the construction project; and

G. Maintain, as a permanent record, copies of all flood hazard development permits issued and data relevant thereto, including reports of the Board of Appeals on variances granted under the provisions of Section 15.3.11; and copies of elevation certificates and certificates of compliance required under the provisions of Section 15.3.9.

#### **15.3.8 Development Standards.**

All developments in areas of special flood hazard are to meet the following applicable standards:

A. New construction or substantial improvement of any structure must:

1. Be designed or modified and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
2. Use construction materials that are resistant to flood damage;
3. Use construction methods and practices that will minimize flood damage; and
4. Use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding conditions.

B. All new and replacement water supply systems are to be designed to minimize or eliminate infiltration of flood waters into the systems.

C. All new and replacement sanitary sewage systems are to be designed and located to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters.

D. On-site waste disposal systems are to be located and constructed to avoid impairment to them or contamination from them during floods.

E. All development is to be constructed and maintained in such a manner that no reduction occurs in the flood carrying capacity of any watercourse.

F. New construction or substantial improvement of any residential structure located within:

1. Zones A1—30, AE and AH are to have the lowest floor (including basement) elevated to at least one foot above the base flood elevation.
2. Zones AO and AH are to have adequate drainage paths around structures on slopes, to guide floodwater away from the proposed structures.

3. Zone AO are to have the lowest floor (including basement) elevated above the highest adjacent grade:
  - a. At least one foot higher than the depth specified in feet on the community's Flood Insurance Rate Map; or
  - b. At least three feet if no depth number is specified.
4. Zone A is to have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Section 15.12.050(G)(1)(b), 15.12.070B or 15.12.100D.
5. Zones V1—30 and VE are to meet the requirements of subsection K of this section.
- G. New construction or substantial improvement of any nonresidential structure located within:
  1. Zones A1—30, AE and AH are to have the lowest floor (including basement) elevated to at least one foot above the base flood elevation, or together with attendant utility and sanitary facilities must:
    - a. Be floodproofed to at least one foot above the base flood level so that below that elevation the structure is watertight with walls substantially impermeable to passage of water;
    - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and
    - c. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification must be provided with the application for a flood hazard development permit, as required by Section 15.3.5J and include a record of the elevation above mean sea level of the lowest floor including basement.
  2. Zones AO and AH are to have adequate drainage paths around structures on slopes, to guide floodwater away from the proposed structures.
  3. Zone AO are to have the lowest floor (including basement) elevated above the highest adjacent grade:
    - a. At least one foot higher than the depth specified in feet on the community's Flood Insurance Rate Map; or
    - b. At least three feet if no depth number is specified; or
    - c. Together with attendant utility and sanitary facilities be floodproofed to meet the elevation requirements of this section and floodproofing standards of subsection (G)(1) of this section.
  4. Zone A is to have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Section 15.3.5(G)(1)(b), 15.3.7B or 15.3.10D.
  5. Zones V1—30 and VE are to meet the requirements of subsection K of this section.
- H. New or substantially improved manufactured homes located within:
  1. Zones A1—30, AE or AH must:
    - a. Be elevated on a permanent foundation such that the lowest floor is at least one foot above the base flood elevation; and
    - b. Be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to:

- i. Over-the-top ties anchored to the ground at the four corners of the manufactured home, plus two additional ties per side at intermediate points (manufactured homes less than fifty (50) feet long require one additional tie per side); or by,
- ii. Frame ties at each corner of the home, plus five additional ties along each side at intermediate points (manufactured homes less than fifty (50) feet long require four additional ties per side).
- iii. All components of the anchoring system described in subsections (H)(1)(b)(i) and (ii) of this section must be capable of carrying a force of four thousand eight hundred (4,800) pounds.
2. Zones AO and AH are to have adequate drainage paths around structures on slopes, to guide floodwater away from the proposed structures.
3. Zone AO is to have the lowest floor (including basement) elevated above the highest adjacent grade:
  - a. At least one foot higher than the depth specified in feet on the community's Flood Insurance Rate Map; or
  - b. At least three feet if no depth number is specified; and
  - c. Meet the requirements of subsections (H)(1)(a) and (b) of this section.
4. Zone A is to have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Section 15.12.050(G)(1)(b), 15.12.070B or 15.12.100D.
5. Zones V1—30 and VE are to meet the requirements of subsection K of this section.
- I. Floodways.
  1. In Zones A1—30 and AE encroachments, including fill, new construction, substantial improvement, and other development are not permitted in riverine areas, for which a regulatory floodway is designated on the community's "Flood Boundary and Floodway Map," unless a technical evaluation certified by a registered professional engineer is provided demonstrating that such encroachments will not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
  2. In Zones A1—30 and AE riverine areas, for which no regulatory floodway is designated, encroachments, including fill, new construction, substantial improvement, and other development not permitted unless a technical evaluation certified by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development:
    - a. Will not increase the water surface elevation of the base flood more than one foot at any point within the community; and
    - b. Is consistent with the technical criteria contained in Section 2-7 entitled "Hydraulic Analyses," Flood Insurance Study—Guidelines and Specifications for Study Contractors, FEMA 37/September, 1985, as amended.
  3. In Zone A riverine areas, in which the regulatory floodway is determined to be the channel of the river or other watercourse and the adjacent land areas to a distance of one-half the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain, encroachments, including fill, new construction, substantial improvement, and other development not permitted unless a technical evaluation certified by a registered professional engineer is provided meeting the requirements of sub~~section~~ (I)(2) of this ~~section~~.
- J. New construction or substantial improvement of any structure in Zones A1—30, AE, AO, AH and A that meets the development standards of this section, including the elevation

requirements of subsection F, G or H of this section and is elevated on posts, columns, piers, piles, “stilts” or crawlspace less than three feet in height may be enclosed below the elevation requirements provided all the following criteria are met or exceeded:

1. Walls, with the exception of crawlspace less than three feet in height, must not be part of the structural support of the building; and
2. Enclosed areas are not “basements” as defined in Section 15.3.2; and
3. Enclosed areas are to be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must either:
  - a. Be certified by a registered professional engineer or architect, or
  - b. Meet or exceed the following minimum criteria:
    - i. A minimum of two openings having a total net area of not less than one square inch for every square foot of the enclosed area,
    - ii. The bottom of all openings may be no higher than one foot above the lowest grade, and
    - iii. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of flood waters automatically without any external influence or control such as human intervention, including the use of electrical and other nonautomatic mechanical means; and
4. The enclosed area may not be used for human habitation; and
5. The enclosed area may be used for building maintenance, access, parking vehicles, or storing of articles and equipment used for maintenance of the building.

K. Coastal Floodplains.

1. All new construction located within Zones V1—30 and VE are to be located landward of the reach of the highest annual spring tide.
2. New construction or substantial improvement of any structure located within Zones V1—30 or VE must:
  - a. Be prohibited unless the following criteria are met:
    - i. The area is zoned for general development or its equivalent, as defined in the Mandatory Shoreland Zoning guidelines adopted pursuant to 38 §438-A, or
    - ii. The area is designated as densely developed as defined in 38 §436-A, subsection 3;
  - b. Be elevated on posts or columns such that:
    - i. The bottom of the lowest structural member of the lowest floor (excluding the pilings or columns) is elevated to one foot above the base flood level,
    - ii. The pile or column foundation and the elevated portion of the structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components, and
    - iii. Water loading values used must be those associated with the base flood. Wind loading values used must be those required by applicable state and local building standards;
  - c. Have the space below the lowest floor:
    - i. Free of obstructions, or
    - ii. Constructed with open wood lattice-work, or insect screening intended to collapse under wind and water without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting piles or columns, or
    - iii. Constructed with nonsupporting breakaway walls which have a design safe loading resistance of not less than ten (10) or more than twenty (20) pounds per square foot.

3. A registered professional engineer or architect must:
  - a. Develop or review the structural design, specifications and plans for the construction, which must meet or exceed the technical criteria contained in the Coastal Construction Manual (FEMA-55/February, 1986); and
  - b. Certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the criteria of subsection (K)(2) of this section.
4. The use of fill for structural support in Zones V1—30 and VE is prohibited.
5. Human alteration of sand dunes within Zones V1—30 and VE is prohibited unless it can be demonstrated that such alterations will not increase potential flood damage.
6. The enclosed areas may be used solely for parking vehicles, building access, and storage.

#### **15.3.9 Certificate of Compliance.**

No land in a special flood hazard area may be occupied or used and no structure which is constructed or substantially improved may be occupied until a certificate of compliance is issued by the Code Enforcement Officer subject to the following provisions:

- A. The applicant must submit an elevation certificate completed by:
  1. A registered Maine surveyor for compliance with subsection F, G, H or K of Section 15.3.8, and
  2. A registered professional engineer or architect, in the case of:
    - a. Floodproofed nonresidential structures, for compliance with Section 15.3.8G; and
    - b. Construction of structures in the coastal floodplains for compliance with Section 15.3.8(K)(3).
- B. The application for a certificate of compliance is to be submitted by the applicant in writing along with a completed elevation certificate to the Code Enforcement Officer.
- C. The Code Enforcement Officer is to review the application within ten (10) working days of receipt of the application and issue a certificate of compliance, provided the building conforms with the provisions of this chapter.

#### **15.3.10 Review of Subdivision and Development Proposals.**

The Planning Board must, when reviewing subdivisions and other proposed developments that require review under other federal law, state law or local ordinances or regulations and all projects on five or more acres, or in the case of manufactured home parks divided into two or more lots, assure that:

- A. All such proposals are consistent with the need to minimize flood damage.
- B. All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damages.
- C. Adequate drainage is provided so as to reduce exposure to flood hazards.
- D. All proposals include base flood elevation and, in a riverine floodplain, floodway data.
- E. Any proposed development plan must include a statement that the developer will require that structures on lots in the development be constructed in accordance with Section 15.3.80 and that such requirement will be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The statement must clearly articulate that the municipality may enforce any violation of the construction requirement and that fact is also to be

included in the deed or any other document previously described. The construction requirement must also be clearly stated on any map, plat or plan to be signed by the Planning Board or local reviewing authority as part of the approval process.

#### **15.3.11 Appeals and Variances.**

The Board of Appeals may, upon written application of an aggrieved party, hear and decide appeals from determinations of the Code Enforcement Officer in the administration of the provisions of this chapter. The Board of Appeals may grant a variance from the requirements of this chapter consistent with state law and the following criteria:

- A. Variances may not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
- B. Variances may be granted only upon:
  - 1. A showing of good and sufficient cause; and
  - 2. A determination that should a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, public expense, or create nuisances, cause fraud or victimization of the public or conflict with existing local laws or ordinances; and
  - 3. A showing that the existence of the variance will not cause a conflict with other state, federal or local laws or ordinances; and
  - 4. A determination that failure to grant the variance would result in “undue hardship,” which in this subsection means:
    - a. That the land in question cannot yield a reasonable return unless a variance is granted, and
    - b. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood, and
    - c. That the granting of a variance will not alter the essential character of the locality, and
    - d. That the hardship is not the result of action taken by the applicant or a prior owner.
- C. Variances may only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- D. Variances may be issued by a community for new construction, substantial improvements, or other development for the conduct of a functionally dependent use provided that:
  - 1. Other criteria of this section and Section 15.3.8I are met; and
  - 2. The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
- E. Variances may be issued by a community for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or a State Inventory of Historic Places, without regard to the procedures set forth in subsections A through D of this section.
- F. Any applicant who meets the criteria of subsections A through E of this section is to be notified by the Board of Appeals in writing over the signature of the chairperson of the Board of Appeals that:
  - 1. The issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as twenty-five dollars (\$25.00) per one hundred dollars (\$100.00) of insurance coverage;

2. Such construction below the base flood level increases risks to life and property; and

3. The applicant agrees in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks and agrees to indemnify and defend the municipality against any claims filed against it that are related to the applicant's decision to use land located in a floodplain and that the applicant individually releases the municipality from any claims the applicant may have against the municipality that are related to the use of land located in a floodplain.

G. The Board of Appeals must submit to the Planning Board a report of all variance actions, including justification for the granting of the variance and an authorization for the Code Enforcement Officer to issue a flood hazard development permit, which includes any conditions to be attached to said permit.

#### **15.3.12 Enforcement and Penalties.**

A. It is the duty of the Code Enforcement Officer to enforce the provisions of this chapter pursuant to 30-A M.R.S. §4452.

B. The penalties contained in 30-A M.R.S. §4452 apply to any violation of this chapter.

C. In addition to any other actions, the Code Enforcement Officer, upon determination that a violation exists, is to submit a declaration to the Administrator of the Federal Insurance Administration requesting a denial of flood insurance. The valid declaration is to consist of:

1. The name of the property owner and address or legal description of the property sufficient to confirm its identity or location;

2. A clear and unequivocal declaration that the property is in violation of a cited state or local law, regulation or ordinance;

3. A clear statement that the public body making the declaration has authority to do so and a citation to that authority;

4. Evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and

5. A clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

#### **15.3.13 Conflict with Other Ordinances.**

This chapter does not impair or remove the necessity of compliance with any other applicable rule, ordinance, regulation, bylaw, permit or provision of law. Where this chapter imposes a greater restriction upon the use of land, buildings or structures, the provisions of this chapter control.